

# Compliance Policy and Procedures Manual

## Chapter 8

# Consumer Use Tax



Sales and Use Tax Department

*California State  
Board of Equalization*

*This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.*

*Please contact any board office if there are concerns regarding any section of this publication.*



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# CONSUMER USE TAX

**800.000****GENERAL****800.005**

The purpose of this chapter is to provide information regarding the functions, procedures, and responsibilities of the Consumer Use Tax Section (CUTS).

CUTS administers the Sales and Use Tax Law as it applies to the purchases of vehicles and mobilehomes from persons not licensed or certificated pursuant to the Vehicle Code or the Health and Safety Code. In addition, CUTS is responsible for applying the provisions of the Sales and Use Tax Law to purchases of vessels and aircraft when the seller is not required to hold a seller's permit by reason of the number, scope, and character of that person's sales. CUTS also monitors and issues tax determinations for transactions where tangible personal property is purchased in a foreign country and personally hand-carried through U.S. Customs by California residents.

The information provided in this chapter does not apply to other types of property purchased for use in California. See CPPM 215.000 for information on Consumer Use Tax and Certificate of Registration — Use Tax permits.

**BACKGROUND****800.010**

CUTS administers statewide programs regarding use tax transactions pertaining to vehicles, vessels, aircraft, and mobilehomes by non-dealers, and the use tax due on out-of-state purchases hand-carried through U.S. Customs. However, the Centralized Collection Section (CCS) is responsible for the collection of final liabilities for CUTS accounts.

At this time, CUTS staff is charged with the responsibility of reviewing source leads, establishing accounts, encouraging voluntary compliance through the filing of returns, and issuing billings for the Taxable Activity Types (TATs) under CUTS' administration.

CUTS is part of the Headquarters Operations Division of the Sales and Use Tax Department of the Board of Equalization (BOE). CUTS reports to the Chief, Headquarters Operations Division, and is comprised of the following three teams:

1. Team A and Registration.
2. Team B and Files.
3. Team C and Special Projects.

**SCOPE OF RESPONSIBILITY****800.020**

CUTS acts as a liaison with various county, state, and federal agencies and provides assistance to BOE staff in the district and Headquarters sections. In performing these activities, CUTS is responsible for reviewing and establishing accounts based upon source information that identifies potential use tax leads. Sources of use tax leads include, but are not limited to:

1. Department of Motor Vehicles (DMV).
2. Housing and Community Development (HCD).
3. U. S. Coast Guard (USCG).
4. Federal Aviation Administration (FAA).
5. Department of Homeland Security (Customs).
6. County Assessors' offices.
7. BOE district office referrals.
8. CUTS Foreign Registered Vessel and Aircraft Program (FRVAP).

CUTS encourages voluntary payment of use tax by providing returns, evaluating documentation submitted to support claimed exemptions, and providing advisory services by telephone or correspondence on the application of the laws and regulations to specific transactions. In the absence of voluntary compliance, CUTS issues tax deficiency determinations using available data and resources to support the assessment of taxes due.

**STATUTE OF LIMITATIONS****800.025**

The BOE, through regular audits and other sources, locates information on and investigates sales of vehicles, vessels and aircraft for which tax has not been reported and paid. If a taxpayer has not filed a return, the BOE generally has eight years from the due date of the return in which to issue a billing. If a taxpayer has filed a return but has not paid the tax due, the BOE generally has three years after the due date of the return, or the date the return was filed, whichever is later, to issue a determination.

Note that issuing a determination and notifying the taxpayer of a use tax liability may take place after the due date by which the taxpayer is required to file a tax return and pay the use tax. Therefore, penalty and interest may be applicable to the amount determined to be deficient.

**SOURCES OF INFORMATION****805.000**

The following agencies provide the majority of information pertaining to use tax liabilities:

**DEPARTMENT OF MOTOR VEHICLES (DMV)****805.005**

DMV acts as an agent for the BOE by collecting the use tax due on private party transfers of vehicles, mobilehomes, commercial coaches, and undocumented vessels in California, when the transfer is registered by the purchaser. Each week, DMV provides information to CUTS pertaining to the registration and transfer of vehicles and undocumented vessels that meet certain criteria for potential use tax assessment.

DMV also registers undocumented vessels (as defined in CPPM 812.025) for the State of California as an agent for the Department of Boating and Waterways.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)****805.010**

HCD also acts as an agent for the BOE by collecting the use tax due on an original registration or the transfer of ownership of any mobilehome unit sold by any person other than a licensed California dealer. Applications received where there is a discrepancy in the purchase price or an indication of an intervening owner are flagged and forwarded to CUTS for further review.

**FEDERAL AVIATION ADMINISTRATION (FAA)****805.015**

Each month, CUTS obtains all of FAA's month-end master registration files. Files are matched against the prior month and any changes made to aircraft registered to a California address are captured. The information is processed and added to CUTS' Source Information file where these leads are further reviewed and processed.

**UNITED STATES COAST GUARD (USCG)****805.020**

CUTS also receives master registration files from USCG on a monthly basis. Records are compared to the prior month and any new transactions reflecting California purchasers or California hailing ports are identified for review.

**DEPARTMENT OF HOMELAND SECURITY (CUSTOMS)****805.025**

The United States Customs Service, operating under the Department of Homeland Security, is the resource for duty declarations completed by California residents returning to the United States from foreign destinations. See CPPM 814.000 for additional information.

**COUNTY ASSESSORS' OFFICES — 58 OFFICES STATEWIDE****805.030**

Counties where both documented vessels (as defined in CPPM 812.010) and aircraft are located provide the most recent property tax rolls to CUTS. These property tax rolls are compared to FAA and USCG information for any discrepancies in ownership information or indications that the taxpayer has provided the federal government with an address located outside of California. CUTS staff periodically visits these offices to obtain the information needed to send use tax inquiries.

**MISCELLANEOUS LEADS****805.035**

CUTS also obtains leads from other government agencies, district offices and from the public regarding any potential unpaid use tax relating to vehicles, mobilehomes, vessels, and aircraft.

## COMPLIANCE POLICY AND PROCEDURES MANUAL



**REGISTRATION OF CONSUMER USE TAX ACCOUNTS****810.000****REGISTRATION DEFINED****810.005**

Registration is defined as those functions related to the on-line input of data from source documents and other information that results in the establishment of a Taxpayer Identification Number (TIN), a Source Information File (SIF) and/or a taxable activity account for all Taxable Activity Types (TAT) under the tax programs administered by CUTS.

**SOURCE INFORMATION FILE SYSTEM (SIF)****810.010**

The Source Information File System (SIF) is an electronic database exclusive to CUTS that is used as a pending registration system for investigation of potential use tax liabilities for vehicles, vessels, and aircraft. Information received from various sources is added to SIF, either electronically or manually, creating a source record for each potential taxable event. SIF allows for the gathering of additional information from sellers, DMV, FAA, or USCG required in the registration process, such as owner names, purchase dates, and selling prices used to determine if a possible use tax liability and financial obligation exist. If sufficient documentation is received that confirms no use tax liability exists, the source record is closed. If it is determined that a potential use tax liability exists, the source record is registered for a taxable activity, which creates a financial obligation.

**TAXABLE ACTIVITY REGISTRATION — CONSUMER USE TAX (CUT)****810.015**

CUTS is responsible for creating and maintaining on-line registration for taxable activities relating to purchases made from non-dealers of vehicles, mobilehomes, vessels, aircraft, and certain purchases of tangible personal property subject to use tax that are hand-carried into this state by California residents from outside this state.

In order for taxable activity registration to occur, the following information is required:

1. Taxpayer's name and address.
2. Purchase date.
3. Value — either an actual selling price reported by the seller confirmed by a bill of sale or similar document or an estimated market value from a value guide for the item (Kelley Blue Book, Aircraft Blue Book, etc.).
4. Identifying information of the property (e.g. license plate or VIN for vehicles; CF number or documentation number for vessels; and, tail or "N" number for aircraft).
5. County where vehicle, vessel or aircraft is stored, moored, or hangared (if different from the taxpayer's county of residence).

Optional information that is desirable but not required includes:

1. Taxpayer's telephone number.
2. Make, model and year.

Registration of CUTS accounts begins in the IRIS Client Taxpayer System (CTS) using the same process as sales and use tax registrations.

Access to CUTS information for field offices and other sections of the BOE is limited to "view only" and "adding comments." If a taxpayer wants to make a voluntary payment of use tax on a vehicle, vessel, aircraft, etc., taxable activity registration can only be done by CUTS. (Please refer to CPPM 840.005 for procedures on voluntary payments.)

Note: Arbitrary account numbers (SR XX 052-000000) are issued for payments received in the district offices that do *not* involve one of CUTS programs, such as a use tax payment received from a taxpayer for the out-of-state purchase of fixtures used in his or her business when that business is not required to hold a permit. (See CPPM 295.091)

**TAXABLE ACTIVITY TYPE (TAT)****810.020**

The BOE has seven separate and distinct Taxable Activity Types (TATs) that represent use tax programs:

1. Consumer Use Tax Accounts. TAT SU (District responsibility.)
2. Certificate of Registration — Use Tax. TAT SC (District responsibility.)
3. One-Time Financial Obligation – Use Tax. TAT SD (Centralized Collections Responsibility.)
4. Vehicle and Mobilehome purchases from non-dealers. TAT SA (CUTS responsibility.)
5. Vessel purchases from non-dealers. TAT SB (CUTS responsibility.)
6. Aircraft purchases from non-dealers. TAT SP (CUTS responsibility.)
7. Purchases from outside the United States, prior to July 1, 2007, by a California resident that are hand-carried and declared through the Department of Homeland Security (U.S. Customs). TAT SI (CUTS responsibility.)

This chapter contains the guidelines for the TATs of *SA*, *SB*, *SP*, and *SI* that are the responsibility of CUTS. For information regarding TATs *SU*, *SC* and *SD*, refer to CPPM 205.050 and 215.010.

**TAXABLE ACTIVITY TYPE INDICATORS****810.025**

This indicator identifies the source of the information received and is used to create the TAT and potential use tax liability. Certain TAT indicators are automatically assigned by the Source Information File (SIF) registration system. The majority are from various electronic sources of information (DMV, FAA, and USCG). Other indicators are manually selected during the registration process. These TAT indicators afford CUTS the ability to identify and establish the cost-benefit ratio of the various leads received. The TAT Indicator information is available in IRIS by using the F1 key under the TAT Field on the TAR MA screen.

**TAX RATE****810.030**

The use tax rate is based upon the tax rate in effect on the date of purchase at the place of use for purchases hand-carried through U.S. Customs or at the location where the:

1. Vehicle/mobilehome is registered.
2. Vessel is principally used, stored, or otherwise consumed – including mooring or berthing.
3. Aircraft is hangared or tied-down.

The place of use determines the tax rate regardless of the location of the property when it is purchased. For example, in 2001 a resident of Sacramento (tax rate 7.50%) purchased a vessel in Santa Cruz (tax rate 8.00%) and moored it in a slip in San Mateo (tax rate 8%). The applicable tax rate charged is the rate in effect at the time of purchase for the location where the vessel is moored or berthed, which in this case is 8%, for San Mateo County.

**TAX AREA CODES****810.035**

For CUTS accounts, the three-digit city code is assigned as “999” for the use tax to be apportioned among the county and all local tax jurisdictions within the county (the county code is determined by the two digits preceding the city code).

**VEHICLES/MOBILEHOMES PROGRAM****811.000****SOURCE INFORMATION****811.005**

DMV routinely submits an electronic tape to CUTS pertaining to vehicle registration and transfers for potential use tax assessments. Information is loaded to the Source Information File (SIF) system and a hard copy source document is created for further investigation.

HCD refers all “Certification of Retail Value and Purchase Price” (HCD476.4) transactions to CUTS to review:

1. For the possibility of an intervening owner.
2. When there is question as to the purchase price/value of a mobilehome.

These transactions are identified by HCD by attaching a “Pull Notice” (HCD492.4) to the certification.

**PERSONS REQUIRED TO FILE RETURNS****811.010**

Use tax on the storage, use or other consumption of vehicles and mobilehomes is due and payable by the purchaser at the time of first storage, use or other consumption of the property in California, unless specifically exempt. Registration of a vehicle with DMV or a mobilehome with HCD constitutes filing a return. The use tax will be collected if applicable, by DMV or HCD acting as agents for the BOE, at the time of registration. (RTC section 6292.)

Any person who purchases a vehicle (as defined in the Vehicle Code) or mobilehome (subject to annual license fees under the Health and Safety Code) for use in California from a person who is not licensed or certificated as a manufacturer, dealer, dismantler, or lessor-retailer, and who has **not** made application for registration with DMV or HCD, shall file a Combined State and Local Consumer Use Tax Return for Vehicles/Mobilehomes and pay the use tax to the BOE.

**MEASURE AND DUE DATE****811.015**

*Vehicles* — The use tax due is measured by the total purchase price including cash, the market value of any property given in trade, and the payment or assumption of any loan or any other valuable consideration given to the seller.

*Mobilehomes* — Effective January 1, 1986, the use tax due is measured by the total contract price or the retail value as determined by a recognized value guide. Tax is due on or before the last day of the month following the month of purchase.

**EXEMPTIONS AND EXCLUSIONS****811.020**

The following are the common types of exemption or exclusions for purchases of vehicles and mobilehomes (see CPPM 820.000):

1. Interstate or foreign commerce and 6 month test for commercial miles traveled.
2. Family transfer.
3. Not purchased for use in California.
4. Presumption of Use.
  - a. 90-day test (exclusive of time of storage for shipment and shipping) and six-month test. Effective prior to October 2, 2004 and from July 1, 2007 to September 30, 2008.
  - b. 12-month test (exclusive of time of storage for shipment and shipping). Effective from October 2, 2004 through June 30, 2007 and after September 30, 2008.
5. Gift.

**ADDITIONAL INFORMATION****811.025**

Sales Between Political Jurisdictions — Sales of vehicles between state agencies are not retail sales since the actual ownership remains the same. No tax is due upon application for transfer of registration in these cases. However, sales between a state agency and a political subdivision of the state are retail sales and are subject to use tax. (Example: A sale of a fire truck between the California Department of Conservation and the Willow Oak Fire Protection District is a taxable sale.)

Salvage Pool Vehicles — Wrecked total loss vehicles are not vehicles required to be registered under the Vehicle Code and sales of such wrecked vehicles are the responsibility of the district office as sales of tangible personal property in general.

**VESSELS PROGRAM****812.000****SOURCE INFORMATION****812.005**

The major sources of information on vessel transfers are DMV and USCG. DMV submits undocumented vessel registration and transfer information by electronic tape (as it does for the Vehicle program) and the information is loaded into the Source Information File (SIF) for further review.

Information received from USCG on documented vessels, in the form of a CD-ROM, is compared to the previous quarter's information and any new transactions showing either California purchasers or California hailing ports are flagged for review. If additional information is needed, Abstracts of Title can be ordered from USCG. Abstracts provide the chain of title and all owners' names, whereas the CD-ROM only provides the name and address of the current managing owner.

**DOCUMENTED VESSEL****812.010**

A documented vessel is a vessel for which the USCG has issued a valid marine certificate. "Documentation" is a world-wide registration system in lieu of all other registration requirements. Liberian registry or Panamanian registry are common terms used to describe the country of documentation under International Maritime Law.

All commercial vessels of at least five net tons displacement are required to be documented. However, pleasure vessels meeting the size requirement may be documented at the owner's option. Documented vessels normally exceed twenty-eight and one-half feet (28.5') in length. Any vessel that will be used in international waters (outside the three-mile limit of California waters) must be documented with the USCG.

(Note: Sales and Use Tax Regulation 1661 defines any vessel that is 30 feet and more in length as mobile transportation equipment for sales and use tax purposes.)

**PERSONS REQUIRED TO FILE RETURNS FOR DOCUMENTED VESSELS****812.015**

Any person who purchases a vessel documented by the USCG for use, storage or other consumption in California shall file a Combined State and Local Consumer Use Tax Return for Vessels (the tear-out panel in Publication 79 also may be used for this purpose) and pay the use tax to the BOE.

**MEASURE AND DUE DATE****812.020**

The use tax due is measured by the total purchase price of the vessel, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller. The use tax rate is based on the district where the vessel is principally stored, used or otherwise consumed, such as the location where it is moored or berthed.

The return must be filed and tax paid (if applicable) by whichever period expires earlier:

1. On or before the last day of the calendar month following the month in which a return form is mailed or presented to the taxpayer, or,
2. The last calendar day of the twelfth month following the month in which the vessel was purchased.

Example: A vessel is purchased on January 15, 2008. Under number 1, a tax return mailed to the taxpayer on July 16, 2008 would have a tax due date of August 31, 2008. Under number 2 however, a tax return mailed to the taxpayer on May 12, 2008 would have a tax due date of January 31, 2009 (the last calendar day of the 12th month following the month the vessel was purchased) and penalty and interest would be due, even though the taxpayer did not receive the tax return until after the due date.

**UNDOCUMENTED VESSEL****812.025**

Any vessel which is not required to have, and does not have, a valid marine certificate issued by the USCG is an undocumented vessel. Under the Federal Boating Safety Act, an undocumented vessel must be registered in the state where principally used on the waters. DMV registers undocumented vessels for the State of California as an agent for the Department of Boating and Waterways (CAL-BOAT). If a state does not have a registration requirement, the USCG performs the function.

All undocumented vessels are issued a registration number, which must be displayed on the vessel. Registration numbers start with an abbreviation of the state — California “CF,” Nevada “NV,” etc. Undocumented vessels registered in California should have numbers that read “CF XXXX XX”. The letters “CF” are followed by four numeric and two alpha characters.

**PERSONS REQUIRED TO FILE RETURNS FOR UNDOCUMENTED VESSELS 812.030**

Registration of an undocumented vessel with DMV constitutes filing a return. The use tax will be collected, if applicable, by DMV at the time of registration. (RTC section 6294.)

Any person who purchases an undocumented vessel for storage, use or other consumption in California from a person other than a vessel dealer holding a seller’s permit, and who has not made application to DMV, shall file a Combined State and Local Consumer Use Tax Return for Vessels and pay the use tax to the BOE.

**MEASURE AND DUE DATE****812.035**

The use tax due is measured by the total purchase price of the undocumented vessel, including cash, the market value of any property given in trade, and the payment or assumption of any loan or any other valuable consideration given to the seller. The use tax rate is based on the district where the vessel is principally stored, used or otherwise consumed, such as moored or berthed. Tax is due on or before the last day of the month following the month of purchase.

CUTS makes every effort to send timely returns to the taxpayer thereby allowing the taxpayer to make payment of the use tax without delinquency charges. In most cases, the information is received from USCG and processed by CUTS before the later period identified above. However, in situations where the certification with the USCG is delayed or never completed, sending of returns with delinquency charges already due is unavoidable. Under these circumstances, as with any other late return, the taxpayer may request relief of penalty per RTC section 6592.

**EXEMPTIONS AND EXCLUSIONS****812.040**

The following are common types of exemptions or exclusions for purchases of undocumented and documented vessels (see CPPM 820.000):

1. Commercial deep sea fishing.
2. Interstate and foreign commerce and 6 month test for nautical miles traveled.
3. Family transfer.
4. Not purchased for use in California.
5. Presumption of Use.
  - a. 90-day test (exclusive of time of storage for shipment and shipping) and six-month test. Effective prior to October 2, 2004 and from July 1, 2007 to September 30, 2008.)
  - b. 12-month test (exclusive of time of storage for shipment and shipping). Effective from October 2, 2004 through June 30, 2007 and after September 30, 2008.
6. Gift.

**ADDITIONAL INFORMATION****812.045**

Floating Homes — A houseboat or “floating home” is a “vessel” within the meaning of RTC section 6273, if it constitutes personal property and is navigable. The use of the vessel as a residence, the granting of a Homeowner’s Exemption by the County Assessor to the owner, or the number or nature of connections to the vessel from shore do not alone exclude the sale, storage, use or other consumption of the vessel from sales or use tax.

If the property is permanently affixed to real property in such a manner as to become a permanent addition and the owner is either the owner of the real property or holder of a long-term lease comparable to the life of the houseboat or floating home, it is real property not subject to sales or use tax upon transfer. A houseboat or floating home that is not suitable for movement on the water is not a vessel.

## COMPLIANCE POLICY AND PROCEDURES MANUAL



**AIRCRAFT PROGRAM****813.000****SOURCE INFORMATION FILE****813.005**

Each month the master file from FAA of all aircraft registered in the United States is downloaded from the FAA Website and matched against the prior month's records. Information pertaining to changes to or additions of aircraft registered to a California address are then loaded to the Source Information File (SIF) system and a hard copy source document is created for further investigation by CUTS. The SIF is a pending registration system that allows CUTS the ability to obtain necessary background information required for taxable activity registration.

**PERSONS REQUIRED TO FILE****813.010**

Any person who purchases an aircraft for use, storage, or other consumption in California from a person other than an aircraft dealer holding a seller's permit shall file a Combined State and Local Consumer Use Tax Return for Aircraft or the tear-out panel in Publication 79A and pay the use tax to the BOE.

**MEASURE AND DUE DATE****813.015**

The use tax due is measured by the total purchase price of the aircraft, including component parts, unless specifically exempt. The use tax rate is based upon the tax rate in effect on the date of purchase for the district where the aircraft is principally used, stored or otherwise consumed, e.g., kept in a hangar or tied down.

The return must be filed and tax paid (if applicable) by whichever period expires earlier:

1. On or before the last day of the calendar month following the month in which a return form is mailed or presented to the taxpayer,
- or,
2. The last calendar day of the twelfth month following the month in which the aircraft was purchased.

Example: An aircraft is purchased on January 15, 2008. A tax return mailed to the taxpayer on July 16, 2008 would have a tax due date of August 31, 2008. However a tax return mailed to the taxpayer on May 12, 2008 would have a tax due date of January 31, 2009 (the last calendar day of the 12th month following the month the aircraft was purchased) and penalty and interest would be due, even though the taxpayer did not receive the tax return until after the due date.

CUTS makes every effort to send timely returns to the taxpayer thereby allowing them to make payment of the use tax without delinquency charges. In most cases, the information is received from FAA and processed by CUTS before the later period identified above. However, in situations where the certification with the Federal Aviation Administration is delayed or never completed, sending of returns with delinquency charges already due is unavoidable. However, as in the case of any late return, the taxpayer may request relief of penalty per RTC section 6592.

**EXEMPTIONS AND EXCLUSIONS****813.020**

The following are the common types of exemptions or exclusions for purchases of aircraft (see CPPM 820.000):

1. Common carrier and 6 month test of commercial flight-time traveled.
2. Interstate or foreign commerce
3. Family transfer.
4. Not purchased for use in California.
5. Presumption of Use.
  - a. 90-day test (exclusive of time of storage for shipment and shipping) and six-month test. Effective prior to October 2, 2004 and from July 1, 2007 to September 30, 2008.)
  - b. 12-month test (exclusive of time of storage for shipment and shipping). Effective from October 2, 2004 through June 30, 2007 and after September 30, 2008.
6. Gift.

**ADDITIONAL INFORMATION****813.025**

Gliders, sailplanes, and balloons are not powered and are not aircraft as defined in RTC section 6274.

## **U.S. CUSTOMS PROGRAM — CUSTOMS DECLARATIONS FOR HAND-CARRIED ITEMS**

**814.000**

Since 1935, the use tax law has been in effect in California as a complement to the sales tax. The use tax serves two purposes:

1. It prevents California merchants from suffering a competitive disadvantage with respect to out-of-state merchants.
2. It assures that all persons in the state contribute fairly to the funding of state and local programs whether they choose to make purchases in California or outside the state.

In 1990, California's budget included funding for an enforcement program to collect use tax from residents based on declarations made to the U.S. Customs Service (Customs). Note: after September 11, 2001, Customs operates under the umbrella of the Department of Homeland Security.

Use tax applies to foreign purchases of tangible personal property brought into this state for storage, use, or other consumption, unless exempt by law or type of transaction (see CPPM 814.025 for exemptions). The Board of Equalization has the authority under RTC section 7054 to audit customs declarations that passengers fill out and report to Customs for property first entering into the United States. CUTS administers the review and assessment of use tax based on the declaration forms completed by travelers hand-carrying items into California.

### **SOURCE INFORMATION**

**814.005**

From July 1, 1990 through June 30, 2007, Customs gave CUTS access to customs declarations filed at various ports of entry throughout California. Unlike other CUTS programs, the customs information was not entered into the Source Information File system (SIF). After June 30, 2007, Customs modified the access to duty declarations to those instances where the BOE can identify the name of the traveler and the date traveled.

Note: This program, which uses Taxable Activity Type (TAT) SI, is not the same program as the Customs program administered by the Centralized Collection Section. That program is identified by TAT SD. See CPPM 215.010 for information about TAT SD.

### **TAXABLE ACTIVITY REGISTRATION**

**814.010**

The following information must be present in order to register travelers for taxable activity:

1. Purchaser's full name.
2. California address.
3. Total amount of purchases (in U.S. dollars).

### **RETURNS**

**814.015**

Each California resident who hand-carries merchandise purchased from a retailer outside the United States into this state for storage, use or consumption, unless specifically exempt, may be mailed a Combined State and Local Consumer Use Tax Return for Customs Declarations to pay the use tax to the BOE. The use tax may also be reported and paid by the taxpayer to the Franchise Tax Board with the annual income tax return filed by California taxpayers prior to an account being established by CUTS.

**MEASURE AND DUE DATE****814.020**

The use tax due is measured by the total purchase price of property hand carried into California, less the allowable exemption per person (\$400 per person prior to January 1, 2007 and \$800 per person on or after January 1, 2007), not previously claimed within a 30-day period. Tax is due on or before the last day of the calendar month following the month a tax return form is mailed or presented to the taxpayer. (RTC sections 6246 and 6405.)

If a tax return is not provided to the taxpayer by the BOE, the tax is due on or before the due date of taxpayer's Franchise Tax Board income tax return for the year in which the merchandise was brought into California. For example, if a taxpayer returns to California and declares their merchandise through Customs on December 15, 2007, the use tax would be due on or before April 15, 2008. If the taxpayer entered California and declared their merchandise through Customs on January 1, 2008, the due date of the use tax would be April 15, 2009.

**EXEMPTIONS AND EXCLUSIONS****814.025**

The following are common types of exemption and exclusions for purchases of tangible personal property from the customs program (See CPPM 820.000):

1. Effective January 1, 2008, the first \$800 per person of tangible personal property hand-carried into this state and reported on a single declaration. The exemption may be taken only once within any 30 day period (RTC section 6405). Prior to January 1, 2008, the exemption was applicable to the first \$400 per person of foreign purchases hand-carried into California within any 30 day period. This exemption does not apply to tangible personal property sent or shipped into this state.
2. All merchandise purchased for resale, provided there is documentation showing that the property was purchased for resale and that no personal use was made of the property prior to its resale, other than demonstration and display.
3. Items purchased for use outside California are not subject to tax if there is documentation showing that the ultimate destination and use will be outside this state.
4. Foreign purchases of property used outside California for more than 90 days before entering this state. Different rules apply to the purchase of vehicles, vessels, and aircraft. See Regulation 1620, *Interstate and Foreign Commerce*, for more information.
5. Gifts received while abroad are not subject to use tax. However, a signed letter from the donor describing the gift and verifying that no consideration was received is required to support this exemption. Items purchased to give as gifts are subject to use tax measured by the cost of such merchandise if it exceeds the exemption amount noted above.
6. Other exempt purchases such as food, prescription medicine/eyeglasses, or any other exempt transactions as allowed by the California Sales and Use Tax Law. Each claim for exemption must be clearly explained.

Note: Items which are exempt from federal duty may not be exempt from the use tax. Conversely, purchases of items which may be subject to federal duty, such as food products for human consumption (except alcoholic beverages and vitamins) or prescriptions medicines, may not be subject to the use tax.

**ADDITIONAL INFORMATION****814.030**

Requests for amendments to duty declarations are handled by Customs and should be referred to the nearest customs office. If the amendment results in an adjustment of the total amount of purchases, documentation should be provided to CUTS.

California does not have a reciprocal agreement with other countries involved in the Value Added Tax (VAT) for refunding the sales or use tax paid on purchases made in this state.

## **FOREIGN REGISTERED VESSEL AND AIRCRAFT PROGRAM (FRVAP)**

**815.000**

The purpose of this program is to collect the use tax on the storage, use or other consumption of vessels and aircraft that are documented or registered to an out-of-state address, but are being assessed personal property tax in California. CUTS reviews property tax rolls in comparison with information obtained from the FAA and the USCG. Any discrepancies such as changes in ownership or addresses recorded both in and out of state are verified for use tax paid.

Although both undocumented and documented vessels are assessed personal property tax, CUTS does not pursue use tax arising from the purchase of undocumented vessels through FRVAP since DMV, acting as an agent for the BOE, collects use tax measured by the purchase price at the time of registration. See CPPM 812.025 for information on undocumented vessels.

### **SOURCE INFORMATION**

**815.005**

CUTS compares the Federal Aviation Administration and the USCG information with personal property information obtained from various county assessors. The compilation results in a list of possible leads, which are further investigated by CUTS staff. County assessor records are reviewed for specific information regarding sales or use tax paid on the purchase.

### **RETURNS**

**815.010**

Refer to CPPM 812.015 and 813.010 for documented vessels and aircraft.

### **MEASURE AND DUE DATE**

**815.015**

Refer to CPPM 812.020 and 813.015 for documented vessel and aircraft due dates.

### **EXEMPTIONS AND EXCLUSIONS**

**815.020**

Refer to CPPM 812.040 and 813.020 for vessel and aircraft exemptions and exclusions.

### **ADDITIONAL INFORMATION**

**815.025**

RTC section 220.5 allows for an exemption from personal property taxation of an “aircraft of historical significance.” This exemption does not apply to use tax.

The Servicemember’s Civil Relief Act also exempts military personnel from personal property taxation in specific circumstances, but is “inapplicable to one-time transactions taxes, such as sales and use taxes.”

## COMPLIANCE POLICY AND PROCEDURES MANUAL

**EXEMPTIONS AND EXCLUSIONS****820.000**

Any exemption from use tax or claim that the purchase of the tangible personal property is not subject to the use tax must be supported by documentation. Even though the evidence may vary considerably from case to case, each claim must have sufficient documentation to substantiate the claim. The following section explains the exemptions and exclusions most common to CUTS programs.

**NOT PURCHASED FOR USE IN CALIFORNIA****820.005**

RTC section 6248 contains the presumptions for application of use tax to vehicles, vessels and aircraft purchased outside the state and brought into California for use in this state. For periods prior to October 2, 2004 and from July 1, 2007 to September 29, 2008, the 90-day/6-month test below is applicable to these transactions.

1. Purchase Date Prior to October 2, 2004 and from July 1, 2007 to September 29, 2008.

a. 90-Day Test

If a vehicle, vessel, or aircraft is purchased and used outside of California for more than 90 days before entering this State, the purchase qualifies for the out-of-state exemption from use tax. Shipping time or time of storage prior to shipment into California is excluded from the 90-day period.

b. 6-Month Test

If the vehicle, vessel, or aircraft enters California within 90 days from the date of purchase, it is presumed to have been purchased for use in California, unless it was first functionally used outside California prior to its entry and was used, stored or both used and stored outside California one-half or more of the time during the six-month period immediately following its first entry into this state. The six-month period can be viewed as the equivalent to a "half year," or the actual number of days that range from 181 to 184 days depending on which month the test period starts, or 182 days under the rule of the Government Code.

Taxpayers should be allowed to rebut the presumption under all reasonable interpretations of what "six months" may mean as described above.

2. From October 2, 2004 through June 30, 2007 (excludes a binding purchase contract entered into on or before October 1, 2004) and after September 30, 2008, a 12-month test period is applicable to these transactions as follows:

a. 12-month Test [Regulation 1620(b)(5)(A)]

A vehicle, vessel, or aircraft purchased outside of California and brought into this state is regarded as having been purchased for use in this state if the first functional use is in California. When a vehicle, vessel, or aircraft is purchased outside of California, is first functionally used outside of California, and is brought into California within 12 months from the date of its purchase; it is rebuttably presumed to be purchased for use in California and is subject to use tax if any of the following occurs:

1 The vehicle, vessel, or aircraft was purchased by a California resident, as defined in Vehicle Code section 516, as that section now reads or is hereinafter amended.

Vehicle Code section 516 (2006) defines resident as follows:

"Resident means any person, including a natural person, firm, partnership, association, limited liability company, or corporation, who shows intent to live or be located in this state on more than a temporary basis. A person's presence in the state for six months or more in any 12-month period creates a rebuttable presumption of residency. The following are evidence of residency for purposes of vehicle registration:



## NOT PURCHASED FOR USE IN CALIFORNIA

(CONT.) 820.005

- a. Address where registered to vote.
  - b. Location of employment or place of business.
  - c. Payment of resident tuition at a public institution of higher education.
  - d. Attendance of dependents at a primary or secondary school.
  - e. Filing a homeowner's property tax exemption.
  - f. Renting or leasing a home for use as a residence.
  - g. Declaration of residency to obtain a license or any other privilege or benefit not ordinarily extended to a non-resident.
  - h. Possession of a California driver's license.
  - i. Other acts, occurrences, or events that indicate presence in the state is more than temporary or transient."
2. In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.
  3. In the case of a vessel or aircraft, the vessel or aircraft is subject to property tax in this state during the first 12 months of ownership.
  4. The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership. (This is applicable only to non-California residents at the time of purchase.)
- b. Repair, retrofit, or modification of vessels or aircraft are exempt from use tax *unless* the following occurs: [Regulation 1620(b)(5)(D)]
    1. During the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an aircraft or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by any authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel.
    2. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

Under RTC section 6248(f), the presumption that a vehicle was purchased for use in this state may be controverted by documentary evidence that it was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying the dates of travel to and from the warranty or repair facility.

For more information regarding the qualifying period for "Not Purchased for Use in California" claims, contact CUTS.



**INTERSTATE OR FOREIGN COMMERCE****820.010**

An exception from the use tax applies to tangible personal property that is purchased for use and is used in interstate and foreign commerce prior to its first entry into California and is thereafter used continuously in interstate or foreign commerce both within and without California. Generally, property (except vehicles and aircraft) used exclusively within California does not qualify for the exemption. This means that the property must travel to destinations outside California and cannot operate solely between destinations within California. (See Regulation 1620(b)(2)(B).)

To qualify for the exception for property purchased for use and used in interstate or foreign commerce, the property must have been delivered to the purchaser out of state and first functionally used in interstate or foreign commerce outside California before entering this state. If the first functional use occurs in California, the purchase or use of the property is subject to tax. In addition, property brought into California within 90 days from the date of purchase is presumed to have been purchased for use in this state unless documentation is provided to show the following:

1. For tangible personal property in general (including vessels): The property was used or stored outside California one-half or more of the time during the six-month period immediately following its first entry into this state. However, vehicles and aircraft purchased for use in interstate or foreign commerce may be exclusively used in California and still qualify for the exception from the use tax, provided the purchaser can prove that the vehicle or aircraft was not purchased for use in California. For vehicles and aircraft, use in interstate commerce means that at least one package or passenger has its origin in one state or country and its destination in another. As such, vehicles or aircraft operating entirely within the boundaries of California that carry at least one package or passenger with an origin or destination outside California are considered to be used in interstate or foreign commerce for that trip or flight.
2. For vehicles and aircraft: To determine if a vehicle or aircraft qualifies for the exception from tax for use in interstate commerce, the property must be first functionally used in interstate or foreign commerce outside California before entering this state, then apply the six-month principal use test as stated in Regulation 1620(b)(4).
  - a. For vehicles: One-half or more of the miles traveled by the vehicle during the six-month period immediately following its entry into this state are commercial miles traveled in interstate commerce.
  - b. For aircraft: One-half or more of the flight time traveled during the six-month period immediately following its entry into this state is commercial flight time traveled in interstate commerce.

For examples of what constitutes interstate commerce for vehicles and aircraft, see Regulation 1620(b)(4) examples 1 to 12.

**COMMERCIAL DEEP SEA FISHING****820.015**

Tax does not apply to watercraft principally used in commercial deep sea fishing operations outside the territorial waters of California. It shall be rebuttably presumed that “persons engaged in commercial deep-sea fishing operations” do not earn less than \$20,000 in gross receipts per year from their fishing activities. Note: It is not material to the application of tax whether a vessel is documented with the USCG or undocumented and registered with DMV. (RTC section 6368 and Regulation 1594.)

**AIRCRAFT SOLD TO COMMON CARRIERS****820.020**

Generally, tax does not apply to aircraft sold to persons who use the aircraft as a common carrier under authority of the laws of this state, of the United States, or any foreign government, during the first twelve (12) months of operational use. This also extends to aircraft that are leased to common carriers. The use tax law provides a rebuttable presumption that a person is not engaged in business as a common carrier with regard to aircraft purchased after January 1, 1997 unless the yearly gross receipts from such activity exceed 20% of the purchase price of the aircraft, or \$50,000, whichever is less.

If the first twelve months have not expired by the due date of the use tax return, any available documentation should be submitted and the remaining required documentation submitted once the test period has expired. (RTC 6366 and 6366.1 and Regulation 1593.)

**FAMILY TRANSFERS****820.025**

RTC section 6285 provides an exemption from the use tax when the person selling the property is a parent, grandparent, grandchild, child, or spouse of the purchaser or, on or after January 1, 2005, is the registered domestic partner of the purchaser as defined in Family Code section 297, or the brother or sister of the purchaser if both are minors (under the age of 18) and related by blood or adoption; and the seller is not engaged in the business of selling the type of property for which the exemption is claimed.

This exemption does not extend to stepparents, step-grandparents, step-grandchildren, stepsiblings, or stepchildren. There must be a legal adoption for these relations to fall under this specific tax exemption. Claimants must provide documentation to show proof of the relationship and age, if the transfer is between minors.

DMV and HCD may allow the transfer of vehicles, mobilehomes, or vessels between qualified family members without requiring a use tax clearance from the BOE. (See RTC section 6285, Regulation 1610(b)(2)(A), Regulation 1610.2(b)(1)(B)1, and Publication 52.)

**GIFT****820.030**

The gift of a vehicle, vessel, or aircraft is not subject to use tax. To qualify as a gift, the transfer of a vehicle, vessel, or aircraft must be made without any consideration being exchanged in order to obtain the vehicle, vessel, or aircraft. Examples of consideration include cash, credits, receipts, the fair market value of any trade, including trades of equal value, or the assumption of any liability. A Form BOE-111, Certificate of Use Tax Clearance, must be obtained from the BOE in order to effect registration at the DMV of vehicles and undocumented vessels obtained by gift.

**OTHER EXEMPTIONS****820.035**

In addition to the above, there are other types of exemptions not listed on the various Consumer Use Tax returns that can be claimed with the required documentation. The exemption claimed should be explained upon registration at DMV or HCD or on the use tax return under "Other exemptions."

**PURCHASES FOR RESALE****820.040**

Property purchased for resale may be purchased without payment of tax or tax reimbursement, provided the purchaser makes no use of the property except demonstration and display in the course of offering the property for sale.

**MILITARY PERSONNEL****820.045**

When a member of the armed forces on active duty, or the spouse of a member on active duty, contracts to purchase a vehicle outside California before the member receives orders transferring such member to California, no use tax is due based upon registration of the vehicle in California pursuant to the transfer.

However, the member will be considered to have made the independent determination to use the vehicle in California if he or she contracts to purchase the vehicle after receipt of official orders transferring him or her to California. Unless the use is otherwise not subject to tax, the use tax will apply.

The member will be considered to have made the independent determination to use the vehicle in California without regard to the time of receipt of official orders of transfer, if at the time he or she contracts to purchase the vehicle, arrangements are made to take receipt of the vehicle in California. This applies when purchase arrangements are made any time during a scheduled deployment, regardless of the date of orders to return to California.

“Date of Contract to Purchase” applies to service personnel and their spouses only, whereas the actual date of delivery governs purchases made by non-service personnel.

All the foregoing has no application to mobilehomes and commercial coaches, as they are not included in RTC section 6249. Mobilehomes located on military bases or installations are required to be annually registered, and the purchase by resident or non-resident military is subject to tax.

**INDIAN RESERVATIONS****820.050**

In general, tax does not apply to sales of tangible personal property made to Indians who reside on an Indian reservation, if the property is delivered to the purchaser and ownership to the property transfers to the purchaser on the reservation, and the property is thereafter used on the reservation 50% or more of the time during the first 12 months after the purchase.

This exemption applies similarly to sales to partnerships where all of the partners are Indians. In those instances involving purchases by a husband and wife, and both parties claim to be Indians, evidence to support the full exemption is required from both spouses.

If the property is sold to and delivered to a husband and wife on the reservation, but only one of the purchasing spouses is an Indian, a one-half interest in the property is exempt from tax. The half interest in the property attributable to the non-Indian is subject to use tax. The exemption will be prorated exactly 50/50 regardless of the degree of Indian blood of the Indian spouse. A certificate of use tax clearance will only be issued in the name of the Indian spouse and the other spouse must pay the use tax directly to the BOE.

**PURCHASES FROM U.S. GOVERNMENT****820.055**

All purchases of tangible personal property from any unincorporated agency or instrumentality of the U.S. Government are exempt from the use tax, except purchases from the Surplus Property Board or its successor agency and property included in any contractor's inventory. As such, the following types of transactions are not subject to the use tax.

1. A purchase of property from a U.S. Marshal pursuant to an order of a Federal Court. (See Annotation 560.0260)
2. A purchase of property in accordance with the provisions of Title 40 U.S.C.A. section 481(c) from any executive agency authorized by the Office of Federal Procurement Policy. Any transaction carried out under the authority of this section must be evidenced in writing by the Office of Federal Procurement Policy.
3. Surplus property from the U.S. Government transferred to any state, county or local government entity without consideration, except for what is called a "nominal service charge."

Note: Sales made under the authority of Title 40 U.S.C.A. section 484 or IRC section 6335 are taxable (See RTC section 6402 and Business Taxes Law Guide Annotations 560.0174 and 560.0170).

**FOREIGN CONSULS AND CONSULAR OFFICERS****820.060**

In general, neither sales nor use tax applies to the sale or use of tangible personal property sold to foreign consular officers, employees, or members of their families identified by a U.S. Department of State Tax Exemption Card. In addition to the exemption provided, the purchase or lease of a vehicle by a foreign consular officer, employee, or member of their family who does not hold a Tax Exemption Card will be exempted from the sales and use taxes if an identification letter is furnished directly to the retailer by the Office of Foreign Missions, U.S. Department of State.

## **CERTIFICATE OF USE TAX CLEARANCE (BOE-111 AND BOE 111-B)**

**825.000**

### **BOE-111 (VEHICLES/MOBILEHOMES/ COMMERCIAL COACHES) AND BOE-111-B (VESSELS)**

**825.005**

When a registrant claims exemption from the use tax on a transfer of a vehicle/mobilehome/commercial coach or undocumented vessel, DMV or HCD may require a Form BOE-111/111-B, *Certificate of Use Tax Clearance*, to complete registration without payment of the use tax. The Form BOE-111/111-B is issued by the BOE in the following situations:

1. The registrant claims an exemption and provides sufficient documentation to confirm that use tax is not due.
2. The registrant claims an exemption that may qualify, but the qualifying period for the exemption has not expired. The registrant must provide documentation that shows delivery/possession took place out of state to proceed with this claim.
3. The registrant pays the use tax to the BOE.
4. The registrant has requested an Installment Payment Agreement and will be paying the use tax under that agreement.

A Form BOE-111/111-B is never issued for a documented vessel or an aircraft because their registration is handled by either the U. S. Coast Guard or the Federal Aviation Administration, respectively and neither federal entity acts as an agent of the BOE to collect use tax. (RTC section 6422.1.)

### **DMV/HCD PROCESSING**

**825.010**

Initial contact with the taxpayer occurs when the taxpayer presents the application for registration of a vehicle/mobilehome or undocumented vessel to DMV/HCD. Sales tax transactions are recognized by the presence in the registration documents of a vehicle dealer's Report of Sale or a Vessel Dealer or Manufacturer's Sales Tax Certification (DMV form BOAT110). On non-dealer transactions, the DMV/HCD interviewer must make a decision as to the applicability of the use tax. If the DMV/HCD interviewer determines the use tax is due and the taxpayer disagrees, the taxpayer is instructed to request a Certificate of Use Tax Clearance from the BOE. Requests of this type are filed using Form BOE-106, *Vehicle/Vessel Use Tax Clearance Request*. This is a fill-in form available on the BOE's web site to persons making claims.

If the registrant has purchased a vessel/trailer combination and does not have a breakdown of the purchase price for each item, DMV will allocate \$1.00 in use tax to the trailer with the balance applied to the vessel.

### **CUTS PROCESSING**

**825.015**

Requests for a *Certificate of Use Tax Clearance* received by CUTS are assigned a SIF number in pending registration for review and recommendation.

All requests claiming exemption for the principal use test are monitored by CUTS at the end of the 6-month test period. If there is insufficient documentation to substantiate the claim, CUTS will set up the taxable activity registration (TAR) and issue a notice of determination for the use tax due.

**DISTRICT OFFICE PROCESSING****825.020**

Requests by mail/fax or walk-ins for a *Certificate of Use Tax Clearance* should be resolved in the district office and should not be forwarded to CUTS for a decision. If necessary, district staff may obtain assistance from CUTS by phone or mail.

If the taxability cannot be determined at the time of the request (e.g. test period not yet expired or pending receipt of additional documentation) encourage the taxpayer to pay. The use tax due may be paid either directly to the BOE to obtain a Form BOE-111/111-B, or to DMV to complete the registration process. If a claim for exemption is pursued by the taxpayer at the end of the test period, a request for refund of the tax can be made through the BOE. Under RTC section 6902, taxpayers who pay the use tax have six months from the date of overpayment, or three years from the due date of the tax return (when use tax is paid with the tax return) in which to file a claim for refund.

If the transaction is taxable and payment is made in the district office, please refer to CPPM 840.005, Voluntary Payments, for processing instructions.

**PREPARATION OF FORM BOE-106,  
VEHICLE/VESSEL USE TAX INFORMATION****825.025**

When a request for a certificate of use tax exemption is received, a Form BOE-106, *Vehicle/Vessel Use Tax Clearance Request*, should be prepared for each request. The front of the form is completed by the taxpayer. The back of the form is to be completed by staff and approved by a supervisor or designee.

The completed form should indicate that the documentation required to verify the exemption has been provided, and copies of the documentation should be attached to the request.

**REFERRALS TO CUTS****825.030**

Taxpayers should not be told to contact CUTS directly unless a CUTS account number (SA, SB, SP, or SI indicator) has been assigned. Districts should refer BOE-111 packets to CUTS under the following circumstances:

1. A BOE-111 was issued for registration purposes, but tax was not collected because taxpayer was adamant about qualifying for the 6-month principal use exemption. CUTS will follow-up at the end of the 6-month test period to obtain documentation to support the claim. (See CPPM 820.005)
2. Information from a request discloses a multiple transfer in which the prior owner did not register the vehicle or vessel after a prior sale (intervening owner). Copies of documentation on all parties involved should be forwarded to CUTS.
3. A *Certificate of Use Tax Clearance* was issued pursuant to an installment payment agreement.

Referrals should include a complete copy of the BOE-111 packet, along with a brief explanation and the district contact's name and phone number. The packet should also contain copies of any documentation submitted by the taxpayer.



**EXEMPTIONS****825.035**

DMV may complete the transfer and registration of vehicles and undocumented vessels without payment of use tax or presentation of a Form BOE-111 in certain circumstances, such as:

1. Family transfers.
2. Gift transactions.
3. Special taxing jurisdictions. In cases where a zip code may be both within and outside of a special taxing jurisdiction, DMV has been authorized to accept a statement of facts that the address of the registrant is outside of the jurisdiction's boundaries.

Each claim for exemption should be well documented, although the evidence submitted to substantiate a claim might vary. Please refer to CPPM 820.000 for specific information on exemptions.

If DMV is unsure of the taxability of the transaction, that agency will refer the applicant to the local BOE office to request a Certificate of Use Tax Clearance.

**PREPARATION OF FORM BOE-111 OR FORM BOE-111-B****825.040**

Forms BOE-111 and BOE-111-B are press-numbered for control purposes. Voided forms will be retained for three years. The forms should be maintained and accessible only to the Receipts Custodian and the District Administrator or CUTS Supervisor.

The use tax clearance certificate is prepared only in original and is delivered to the person requesting the clearance. The certificate is to be typewritten. If an error is made, a new form must be prepared. Any alteration or erasure voids the certificate.

The Certificate of Use Tax Clearance is completed to show the:

1. Name of the applicant as it will appear on the vehicle/vessel, mobilehome or commercial coach registration records.
2. Make/year and model of the vehicle or vessel.
3. License/decal or CF number.
4. Vehicle/hull identification number or serial number.
5. Date of issuance.
6. Issuing office.

Forms BOE-111 and BOE-111-B are issued by the district, branch office or CUTS by an employee authorized by the District Administrator or CUTS supervisor. A list of employees authorized to sign and issue certificates must be maintained in each office. The person who approves the Form BOE-106 is also authorized to sign the Form BOE-111. However, if an authorized person prepares and approves the Form BOE-106, a different authorized person must sign the Form BOE-111. Rubber stamp signatures will not be used.

A single BOE-111/111-B may be issued for bulk transfers. The following should be noted on the BOE-111/111-B (under year model and VIN areas): "See Attached Schedule" and attach the schedule to the BOE-111/111-B.

After the Form BOE-111/111-B is issued, the press-number of the form and the name of the employee who signs the form are entered on the respective lines of the Form BOE-106.

In those situations where the use tax is collected when the Form BOE-111 or BOE-111-B is issued, the certificate press-number should be entered on the tax return below the name and address of the taxpayer.

## COMPLIANCE POLICY AND PROCEDURES MANUAL



**DETERMINATIONS, DEMANDS AND STATEMENTS****830.000**

A notice of determination (NOD), demand or statement is issued by CUTS when information reveals a use tax liability exists. In general, notices issued by CUTS are handled in the same manner as for sales tax accounts. In order to issue a NOD, taxable activity registration must be established.

**PENALTY AND INTEREST****830.005**

Interest and/or penalties apply to the use tax where:

1. A purchaser is delinquent in transferring registration of the vehicle, undocumented vessel, or mobilehome through DMV or HCD. The purchaser is subject to penalty, and/or interest when application for registration with DMV or HCD is not made within 30 days of the change in ownership, even if the change in ownership was never registered with DMV or HCD, as in the case of some multiple transfers (RTC section 6484 and 6485).
2. A purchaser is late in filing a return with the BOE (RTC section 6591).
3. A purchaser underpaid or failed to pay the tax to DMV, HCD or the BOE (RTC section 6511).
4. A purchaser of a vehicle, vessel, or aircraft registers it outside the State of California for the purpose of evading the payment of taxes. A 50 percent penalty of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft may be assessed (RTC section 6485.1). All elements of fraud must be proven to assess this penalty.

Note: In certain cases involving brokers of vehicles, vessels and aircraft, a 40% penalty may apply under specified criteria (see RTC section 6597).

**REQUEST FOR RELIEF OF PENALTY AND/OR INTEREST****830.010**

Taxpayers may request relief from any penalty assessed on use tax by filing a written request signed under penalty of perjury, stating the facts upon which the claim for relief is based.

Taxpayers may request relief of interest under either of the following conditions:

1. If subject to a catastrophic event as defined in RTC section 6593.
2. Under the provisions of RTC 6593.5, which provides that the BOE may relieve all or any part of the interest imposed:
  - a. Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the BOE acting in his or her official capacity.
  - b. Where failure to pay use tax on a vehicle or vessel registered with the DMV as the direct result of an error by the DMV in calculating the use tax.

If the taxpayer has made a late application with DMV/HCD, the penalty is collected at the time of registration. A request for relief of the penalty can be made at DMV/HCD after which the completed request is forwarded to CUTS for processing. (RTC sections 6592, 6593.5, 6596.)

**PETITIONS****830.015**

Petition requests are received and tracked by the appropriate CUTS team then forwarded to the Petitions Section for processing. Petition requests received in district offices should be forwarded to CUTS.

## REFUNDS

**830.020**

Requests for refunds of use tax and/or penalty under taxable activity types SA, SB, SP or SI are to be forwarded to CUTS for preliminary review prior to forwarding to the Audit Determination and Refund Section.

## COLLECTIONS

**830.025**

The Centralized Collection Section (CCS) is responsible for the collection of use tax due on final liabilities involving any of the CUTS programs. This also includes skip tracing, requests for relief from penalty and Installment Payment Agreements.

**DISTRICT OFFICE RESPONSIBILITIES****840.000****VOLUNTARY PAYMENTS****840.005**

If a taxpayer wishes to make a voluntary payment of use tax on any CUTS program prior to receiving a return from CUTS, he or she should not be told to wait for a notice from the BOE before making payment. Such a delay could result in penalty and/or interest charges incurred. Any payment, when offered, should be accepted along with a completed use tax return signed by the taxpayer. If a return form is not available, include as much of the following information as possible in writing, along with payment:

1. Taxpayer's name, address and daytime phone number.
2. Purchase date.
3. Purchase price and a copy of the bill of sale.
4. Registration number (license plate number, CF number, USCG documentation number, tail or "N" number).
5. Make, model, year, serial number or VIN, or Name (documented vessel).
6. Item location/situs (where it is registered, moored/berthed, tied down/hangared).
7. Any available information on the seller.

Staff should confirm the correct tax rate is used. The applicable tax rate for vehicles and mobilehomes is the rate in effect on the date of purchase or the date the property entered California for the district in which the taxpayer's address is located. For documented vessels and aircraft, the applicable tax rate is the rate in effect in the district of actual situs. (Refer to the appropriate CUTS program section for due dates.)

For on-line remittances, district staff should create a Taxpayer Identification Number (TIN) and add a comment on the TIN record identifying:

1. Amount of payment received.
2. Remittance ID number.
3. Information regarding transaction as outlined above. (This information is necessary for the creation of taxable activity registration by CUTS.)

A copy of the On-Line Remittance Tally Report should be forwarded to CUTS, MIC: 37. Attach a printout of the Client Maintenance screen and any documentation presented by the taxpayer (e.g. bill of sale, etc.) for each payment. The tear-out portion of Publication 79 and 79A for vessels and aircraft, respectively, can also be used. Attach the completed portion to the Client Maintenance screen print and a comment identifying the amount and remittance ID number.

## REFERRAL OF ACCOUNTS TO DISTRICTS

840.010

CUTS may refer information to district offices to assist in the investigation of possible use tax leads that may involve retailers who hold or are required to hold seller's permits. In certain situations, the district may also assist in the investigation of established accounts if requested.

**Brokers** — Effective January 1, 1996, a person making a vessel or aircraft purchase from another person through a broker, may be relieved of the use tax liability if they establish sales or use tax was paid to the broker, by providing a copy of the receipt from the broker showing payment of tax.

If the broker does not have a seller's permit but documentation shows tax has been collected, a memo is to be sent to the appropriate district office (having responsibility for the address of the broker) with the name, address, phone number of the broker and all pertinent information involving the transaction (e.g. purchase date, purchase price, amount of tax, etc.) for investigation. Results of the investigation are to be sent back to CUTS.

If the broker has a seller's permit and documentation shows that tax was collected, copy of the documentation is sent to the audit staff in the appropriate district office for future audit selection purposes.

**Dealers** — CUTS will notify the appropriate district when it is determined that an aircraft or vessel was purchased from a dealer with an active seller's permit and the purchaser provides proof they paid sales tax reimbursement to that dealer. This information is provided for use in the district's audit selection process.

**Taxpayer Requests** — When requested by the taxpayer, CUTS accounts can be referred to the appropriate district office along with copies of pertinent file information and CUTS guidelines related to the particular exemption the taxpayer is seeking. A face-to-face meeting with the taxpayer in the district office often provides staff with the opportunity to quickly resolve the issues. Upon completion of the assignment, district office staff provides CUTS with a written recommendation regarding the exemption along with the number of hours spent on the case.

**MISCELLANEOUS INFORMATION****850.000****INSTALLMENT PAYMENT AGREEMENTS****850.010**

Effective January 2, 2001, RTC section 6832.6 requires the BOE to notify purchasers who have incurred a use tax liability that they have the option to enter into installment payment agreements. CUTS includes the notice BOE-126, *"Your Consumer Use Tax Account May Qualify for an Installment Payment Agreement,"* with any tax return mailed. If a Notice of Determination/Redetermination or Demand for Immediate Payment is issued, the billing should also include the same notification.

Staff should advise taxpayers inquiring about the installment payment agreement option to:

1. Complete the return form, including calculating the amount of use tax due. Also, include a copy of the bill of sale or statement from the seller that verifies the declared purchase price.
2. Prepare a letter or completed Form BOE-126, outlining the specific dates and amounts of payment to be made.
3. Send the completed return, a letter outlining the payment proposal, and include the first payment on or before the due date on the return. If the due date has already passed, advise taxpayer to send payment within (20) days of the date of the contact with the taxpayer.

NOTE: If the taxpayer has received a Notice of Determination or a Demand Notice, a tax return is not required.

When a tax return is received by CUTS indicating an installment payment agreement is being requested, a demand or statement is issued and the information forwarded to CCS for evaluation.

**REQUEST FOR DMV INFORMATION****850.015**

If there is a dispute as to whether the use tax was paid to DMV by a taxpayer on a purchase of a vehicle or vessel, BOE staff can request information from CUTS to resolve those disputes. CUTS has authorization to access DMV vehicle/vessel registration, use tax payment information, and any additional information stored on microfilm.

Staff requesting DMV registration or use tax payment information should send or fax requests to CUTS with as much of the following information as possible:

1. Purchaser name and address.
2. Vehicle Identification Number (VIN) or Vessel Hull Identification Number (HIN).
3. Make and Year Model.
4. License plate number or CF number.

Staff should allow up to four weeks routine processing time for such requests.

**MAIL ORDER PROGRAM****850.020**

Use tax payments for out-of-state purchases made by California residents through the mail are not handled by CUTS. Taxpayers can make payment at any BOE office by completing a return or by completing the tear-out panel in Publication 79B, which is also available on the BOE's website. Alternatively, a taxpayer may also report its use tax liability on its California income tax return and remit payment to the Franchise Tax Board, and such payment will be forwarded to the BOE.